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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,012	12/08/2005	Jean-Baptiste E. Blanc	PU4832USW	1078
23347	7590	11/27/2009		
GLAXOSMITHKLINE			EXAMINER	
CORPORATE INTELLECTUAL PROPERTY, MAI B482			BASQUILL, SEAN M	
FIVE MOORE DR., PO BOX 13398				
RESEARCH TRIANGLE PARK, NC 27709-3398			ART UNIT	PAPER NUMBER
			1612	
			NOTIFICATION DATE	DELIVERY MODE
			11/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/560,012

Applicant(s)

BLANC ET AL.

Examiner

Sean Basquill

Art Unit

1612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7, 11, 13, 15-26, 28, 29, 33, 35 and 42-46 is/are pending in the application.
- 4a) Of the above claim(s) 42, 45 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 13, 15, 21-26, 28, 29, 33, 35, 43, 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Previous Rejections

1. Applicants' arguments, filed 7 July 2009 have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Status of the Claims

2. Claims 1, 5, 7, 11, 13, 15-17, 19, 20, 29, 33, and 44 have been amended, and Claims 4, 6, 8-10, 12, 14, 27, 30-32, 34, 36-41 have been cancelled. Claims 42, 45, and 46 remain withdrawn as directed to nonelected inventions.

Claims 1-3, 5, 7, 11, 13, 15-26, 28, 29, 33, 35, and 43 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 16, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiyoshi Matsumoto, *et al*, *Acyclic Tertiary Amine Halides as Nucleophiles in Substitution*

Reactions of Aromatic and Heteroaromatic Halides, 5 J. CHEM. SOC. CHEM. COMMUN. 306 (1991) (hereinafter “Matsumoto”).

Matsumoto describes the formation of N,N-diethyl-4-nitro-2-(trifluoromethyl)-aniline, as claimed.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 3, 7, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,920,739 (hereinafter “Suda”), in view of George Patani and Edmond LaVoie, *Bioisosterism: A Rational Approach in Drug Design*, 96 CHEM. REV. 3147, 3149 (1996) (hereinafter “Patani”).

Suda describes the synthesis of N-ethyl-N-(b-methoxyethyl)-3-methyl-4-nitroaniline. (C.19, L.60-67). While Suda does not describe a trifluoromethyl group at the 3-position, trifluoromethyl and methyl groups are bioisosteres of each other. (See Patani, indicating that the substitution of fluorine for hydrogen is one of the more commonly employed monovalent isosteric replacements). When chemical compounds have “very close” structural similarities and similar utilities, without more a *prima facie* case may be made. *In re Wilder*, 563 F.2d 457 (CCPA 1957). Stated alternatively, obviousness may be based solely upon structural similarity (an established structural relationship between a prior art compound and the claimed compound, as with homologs). *In re Duel*, 51 F.3d 1552, 1559 (Fed. Cir. 1995). The necessary motivation to make the claimed compound, and thus the *prima facie* case of obviousness, arises from the

reasonable expectation that compounds similar in structure will have similar properties. *In re Gyurik*, 596 F.2d 1012, 1018 (CCPA 1979).

Allowable Subject Matter

5. Claims 5, 11, 13, 15, 21-26, 28, 29, 33, 35, 43, and 44 have been fully considered and appear to be free of the art. However, as currently presented they are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants are strongly encouraged to contact the examiner to schedule an interview during which appropriate claim amendment may be discussed to clearly delineate and claim allowable subject matter which may properly be submitted and entered as an after final amendment.

Conclusion

No Claims are allowable as currently presented.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Basquill whose telephone number is (571) 270-5862. The examiner can normally be reached on Monday through Thursday, between 8AM and 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on (571) 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sean Basquill
Art Unit 1612

/Frederick Krass/

Supervisory Patent Examiner, Art Unit 1612